IN THE HIGH COURT OF JUDICATURE AT BOMBY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4415 OF 2006

Sheshappa Chandrappa Natekar & Ors. ..... Petitioners.

V/s

State of Maharashtra and Ors. ..... Respondents.

Mr. Y.S. Jahagirdar, Senior Advocate with Mr. R.K. Mendadkar for the Petitioners.

Mr. C.R. Sonawane, Assistant Government Pleader for Respondent Nos. 1 and 2.

Mr. R. More for Respondent No.3.

CORAM: **H.S. BEDI, C.J.,** & **V.M.KANADE, J.**

DATE : **OCTOBER 5, 2006**

P.C.

1. We have heard the learned Counsel for the parties and perused the pleadings.

2. We observe that Shri D.R. Chaudhari was, at the relevant time, holding a substantive post of Law Officer and not that of Member Secretary of the Scrutiny Committee. As per Government Notification dated 4th June 2006, Item No.4,

when read alongwith Rule 9 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, Member Secretary must be a Member of the Scrutiny Committee under all circumstances. It is clearly stated in the reply that Shri M.S. Deore, who was a Member Secretary, was on Medical Leave with effect from 31st December, 2005 and, therefore, Shri D.R. Chaudhari, who was a Law Officer, was given the additional charge of Member Secretary while holding the post of Law Officer as well. We thus find that the Committee was not properly constituted. We, therefore, quash the impugned Order at Exhibit "A" with liberty to the respondents to pass a fresh order in accordance with law as expeditiously as possible. Ipso facto, the Order dated 15th July 2006, referred to in Civil Application No. 1813 of 2006 which was disposed of on 25th July, 2006, shall also be deemed to have been quashed.

3. We also observe that none of the issues on the merits of the controversy has been raised by the learned Counsel for the parties and all issues are therefore kept open.

CHIEF JUSTICE

V.M. KANADE, J.